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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,897	12/04/2003	Henry Hickman JR.	HHJ-100-B	9569
7590 08/04/2005				
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		EXAMINER		
		ARYANPOUR, MITRA		
		ART UNIT		
		PAPER NUMBER		
		3711		
		DATE MAILED: 08/04/2005		

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/727,897

Applicant(s)

HICKMAN, HENRY

Examiner

Mitra Aryanpour

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 12, 13, 15, 16 and 19 is/are rejected.
- 7) ☒ Claim(s) 4, 10, 11, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/19/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The amended abstract must be presented on a separate sheet as required by 37 CFR 1.72(b).

### *Claim Objections*

2. Claim 14 is objected to because of the following informalities: It is unclear from the claim language if the dome-shaped head and the bumper represent the same or different elements. If indeed they represent different structures, then such should be disclosed and shown in the application. Appropriate correction is required for the above objection.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 7, 8, 13, 15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Brun (5,465,958).

Regarding claim 1, Brun discloses training apparatus, comprising: an upright, rigid target panel (target 10 which includes goalie outline 45; can be semi-rigid or rigid material; see column 6, lines 7-15 and lines 44-46); and at least one bumper (the broadest reasonable interpretation of *bumper* would include target areas 46; see column 6, lines 7-15) connected to said target panel (target 10), wherein said at least one bumper adaptable to deflect a thrown projectile in a random direction. It should be noted that the preamble, a throwing and catching training apparatus, does

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not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 2, Brun further shows at least one support structure (target frame; see figure 2) connected to said target panel (target 10) for supporting said target panel in an upright position.

Regarding claim 5, Brun shows the at least one bumper (target area 46) may be fabricated from cloth or plastic material. Alternatively it can be made of plastic sheets such as polyurethane, polystyrene or similar durable material. It should be noted that an elastomeric material is a plastic material.

Regarding claim 7, note the rejection for claims 1 and 5.

Regarding claim 8, note the rejection for claim 2.

Regarding claim 13, note the rejection of claims 1, 2 and 5.

Regarding claim 15, as best seen in figure 4, Brun shows the bumpers are equally spaced.

Regarding claim 19, Brun further shows a pair of support members (31 and 32) releasably connected to opposite sides of the target panel (10).

5. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Larson (4,26,551).

Regarding claim 1, Larson discloses a practice apparatus, comprising: an upright, rigid target panel (rebound wall section 12); and at least one bumper (elongated element 30 and/or

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arcuately contoured element 34) connected to said target panel (12), wherein said at least one bumper adaptable to deflect a thrown projectile in a random direction.

Regarding claim 2, Larson shows the apparatus includes a support structure (support member 36) for supporting the target panel (12).

Regarding claim 6, Larson shows the bumper is substantially circular, dome-shaped head (see figures 2-4) extending away from the target panel (12) and adaptable to deflect the thrown projectile in a random direction.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Grispi (5,238,243).

Regarding claim 1, Grispi discloses a target apparatus, comprising: an upright, rigid target panel (rigid vertical wall 11); and at least one bumper (target plate 22) connected to said target panel (11), wherein said at least one bumper adaptable to deflect a thrown projectile in a random direction. It should be noted that the preamble, a throwing and catching training apparatus, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 2, Grispi shows the apparatus includes a support structure (framework 24 and 25) for supporting the target panel (11).

Regarding claim 3, Grispi shows the target panel (11) having a cutout portion (16, 17, 18 or 19) extending through the target panel for further defining a target.

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7. . Claims 7-9, 12, 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Benedict (5,332,230).

Regarding claim 7, Benedict discloses a game apparatus, comprising: an upright, rigid target panel (game plate 11, 12 or 13); and a plurality of elastomeric bumpers (patches 45 or 46) connected to said target panel (11, 12 or 13), wherein said bumpers are adaptable to deflect a thrown projectile in a random direction. It should be noted that the preamble, a throwing and catching training apparatus, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 8, Benedict shows the apparatus includes a support structure (any one of the game plates 11, 12 or 13 can be used as a support structure) for supporting the target panel.

Regarding claim 9, Benedict shows the target panel (11, 12 or 13) having a cutout portion (rectangular opening 41 or 42) extending through the target panel for further defining a target.

Regarding claim 12, Benedict further shows a stem (fastener 19a) releasably connected to the target panel; and a substantially dome-shaped head (hinge pin 19) extends away from the target panel and is adaptable to deflect the thrown projectile in a random direction (best seen in figures 1 and 2). It should be noted that the application as filed does not support two different types of deflection means. Therefore, the stem having a substantially dome-shaped head has been taken to be the same as the bumpers in claim 7.

Regarding claim 13, note the rejection of claims 7 and 8.

Regarding claim 16, note the rejection of claim 9.

***Allowable Subject Matter***

8. Claim 4, 10, 11, 14, 17, 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: The claims would be allowable over the prior art of record, because the prior art does not show or suggest the combination of a training apparatus comprising an upright, rigid and substantially planar target panel having elastomeric bumper(s), a support structure for supporting the target panel, a cut-out portion extending through the target panel for further defining a target and an elastic material connected to the target panel and extending across the cut-out portion of the target panel, wherein the elastic material is adaptable to spring a thrown projectile in a reverse direction when the thrown projectile engages the elastic material.

Additionally, the claims would be allowable over the prior art of record, because the prior art does not show or suggest the combination of an upright, rigid target panel, at least one support structure, a plurality of elastomeric bumpers and a stem received by an aperture in the target panel having a threaded shaft to connect the bumper to the target panel.

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-3, 5-9, 12, 13, 15, 16 and 19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA  
25 July 2005



**MITRA ARYANPOUR**  
**PRIMARY EXAMINER**